

APPEALS - GUIDE

San Luis Obispo County Department of Planning and Building

1/1/06

WHAT IS AN APPEAL?

Any discretionary project or portion of a discretionary project may be appealed. The group that hears and makes the decision on the appeal can affirm, affirm in part, or reverse the action, decision or determination that is the subject of the appeal, based upon findings of fact regarding that particular case.

WHO CAN APPEAL?

Either the applicant or any aggrieved person can file an appeal. In the Coastal Zone an "aggrieved person" is defined as any who, either in person or through a representative who was explicitly identified as such, appeared at a hearing in connection with the decision or appeal of any development, or who by other appropriate means prior to a hearing, informed the county of the nature of his or her concerns, unless for good cause was unable to do either. Aggrieved person also includes the applicant. In the Inland portions of the county, there is no specific definition for aggrieved person.

WHAT CAN BE APPEALED?

Many actions taken by the Department of Planning and Building staff, Building Official may be appealed. Actions to approve or deny a permit application by the Zoning Administrator (Hearing Officer), Subdivision Review Board, or Planning Commission, may be appealed by the applicant or member of the public. Planning Department Decisions by the Planning Director are appealable to the Planning Commission; Zoning Administrator (Hearing Officer), Subdivision Review Board and Planning Commission decisions are all appealable to the Board of Supervisors.

In the Coastal Zone, Board of Supervisor decisions can be appealed to the State Coastal Commission for the following types of projects:

- (1) Developments approved between the ocean and the first public road parallel to the ocean, or within 300 feet of the inland extent of any beach (or of the mean high tide line of the ocean where there is no beach), whichever is the greater distance, as shown on the adopted post-certification appeals maps.
- (2) Approved developments not included in (1) that are proposed to be located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff, as shown on the adopted post-certification appeals maps available for review at the Department of Planning and Building.
- (3) Developments approved in areas not included in (1) or (2) that are located in a Sensitive Coastal Resource Area as defined in Chapter 23.11 of the Coastal Zone Land Use Ordinance, which includes:
 - Special marine and land habitat areas, wetlands, lagoons, and estuaries mapped and designated as Environmentally Sensitive Habitats in the Local Coastal Plan.

- Areas possessing significant recreational value, including any "V" (Visitor Serving designation) as shown in the Land Use Element and areas in or within 100 feet of any park or recreation area.
 - Highly scenic areas which are identified as Sensitive Resource Areas by the Land Use Element.
 - Archaeological sites referenced in the California Coastline and Recreation Plan or as designated by the State Historic Preservation Officer.
 - Special Communities or Small-Scale Neighborhoods which are significant visitor destination areas as defined by Chapter 23.11 of the Coastal Zone Land Use Ordinance.
 - Areas that provide existing coastal housing or recreational opportunities for low- and moderate income persons.
 - Areas where divisions of land could substantially impair or restrict coastal access.
 - Any approved development not listed in Coastal Table O, Part I of the Land Use Element as a Principal Permitted (P) Use.
- (4) Any development that constitutes a Major Public Works Project or Major Energy Facility. "Major Public Works Project" or "Major Energy Facility" shall mean any proposed public works project or energy facility exceeding \$100,000 in estimated construction cost, pursuant to Section 13012, Title 14 of the California Code of Regulations.

You will need to work directly with Coastal Commission staff if you are appealing a Board decision to the Coastal Commission. You can obtain appeal forms from the California Coastal Commission, 725 Front St. Suite 300, Santa Cruz, CA. 95060 (831) 427-4863 or from their website at www.coastal.ca.gov.

Where the item that is the subject of the appeal could have been resolved through an adjustment, variance, amendment of the Land Use Element or the Land Use Ordinance / Coastal Zone Land Use Ordinance, or modification of the provisions of the Land Use Ordinance / Coastal Zone Land Use Ordinance through Conditional Use Permit / Development Plan or Minor Use Permit approval, those procedures are used instead of the appeal process.

WHAT ARE THE GROUNDS FOR APPEAL?

You can appeal either the approval or denial of a land use permit. You may also appeal any specific condition of approval placed on an approval of a land use permit.

In the Inland portion of the county, there are no specific grounds for appeal, except for Site Plan applications. The only basis for an appeal, or action on an appeal by the appeal body on a Site Plan application is whether the proposed use satisfies all applicable provisions of the Land Use Ordinance.

In the Coastal Zone, the California Coastal Act of 1976 limits the grounds for an appeal to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program, or the public access policies set forth in the Coastal Act (Section 30210 et seq. of the Public Resources Code).

For development that may be appealed to the Coastal Commission, all possible local appeals must be exhausted before an appeal to the California Coastal Commission would be accepted. Therefore you must file an appeal at each stage of the process if you are still unsatisfied by the last action.

WHEN DO I HAVE TO FILE AN APPEAL?

An appeal of a Site Plan must be filed within seven days of the decision.

An appeal of a Planning Department, Zoning Administrator, Subdivision Review Board or Planning Commission decision must be filed within 14 days of the decision.

In the Coastal Zone, an appeal of the Board of Supervisors decision to the California Coastal Commission must be filed with the Coastal Commission within 10 working days from the date the Coastal Commission receives the County's Notice of Final Action. Contact the Commission's Santa Cruz Office at (831) 427-4863 for information regarding the date they receive the Notice of Final Action for the project in which you are interested.

This guide is designed to provide general information only. It is not a county ordinance or policy and has no legal effect. The general plan and other chapters of the San Luis Obispo County Code are the official regulations of the county. Those documents, rather than this guide are the only legal basis for assessing how county regulations affect property development.